## REMARKS

The law firm of Harrington & Smith has been requested by the Assignee to assume responsibility for the further prosecution of this patent application. A revocation of the prior power of attorney and a new power of attorney, with a change of correspondence address, has been filed. All future communications regarding this patent application should be directed to customer number 29683.

The specification has been amended to add appropriate section headings.

The Examiner rejected claims 1-11 and 14 under 35 USC 112, first paragraph, for the reasons of record. Without admitting that the Applicants are in agreement with the Examiner's reason for rejection, or that the subject matter added in the previous response is a "negative limitation", claim 1 has been amended to remove the phrase "separate from an aggregate of multiple legs of the journey". Paragraph [0045] of the published US Patent Application US 2005/0278201 A1 recites:

> Moreover, a flight can itself be composed of multiple legs, especially owing to layovers or connecting flights. In the latter case, the transport service will correspond to a leg of a journey.

Clearly, the claimed subject matter in claim 1, as now amended to reflect the language originally in claim 14 (now cancelled without prejudice or disclaimer), of "the given transport service between said two locations is a journey consisting only of a single leg" is clearly supported in the specification as filed, at least in paragraph [0045].

The Examiner is respectfully requested to reconsider and remove the rejection of the claims under 35 USC 112, first paragraph.

A number of other, merely clarifying amendments have been made to the claims. Note that in claim 1 the expression "XFAV$_{Fjk}$(Y)" has been replaced with the expression "XFAV$_{Fik}$(Y)" in order to bring claim 1 into agreement with claim 2.

The Examiner has repeated the rejection of claims 1, 2 and 10 (as well as claim 14 newly added in the prior response) under 35 USC 102(b) as being anticipated by Hornick et al. (US 5,255,184), and has also repeated the rejection of claims 3-9 and 11 under 35 USC 103(a) as being unpatentable over Hornick et al. in view of Talluri (US 6,263,315). These rejections are respectfully disagreed with and are traversed below.

A review of the prosecution history shows that the Examiner has previously rejected claims 1, 2 and 10 under 35 USC 102(b) as being anticipated by Hornick et al., and the Applicants' previous representative has argued against this rejection in several responses. It also appears that a meeting and interview took place on July 23, 2009. The most recent rejection is discussed below.

When rejecting claims 1 and 14 the Examiner refers to col. 5, lines 2-11, col. 5, lines 46-51, and col. 6, lines 48-56, for purportedly disclosing the claimed subject matter of (as amended for clarification):

> selecting at least one other class of service (k') of another transport service ($F_j$) between said two locations;
> determining the number of locally available seats $av_{Fjk'}(Y)$ for the class of service (k') of the another transport service ($F_j$) at the predefined level of expected revenue (Y); and
> determining, for the given class of service (k) on the given transport service ($F_i$), an overall number of available seats $XFAV_{Fik}(Y)$ at the predefined level of expected revenue (Y) as a function of the numbers of locally available seats ($av_{Fik}(Y)$ $av_{Fjk'}(Y)$) determined for the given transport service ($F_i$) and the at least another transport service ($F_j$) between said two locations,
> where the given transport service between said two locations is a journey consisting only of a single leg.

Col. 5, lines 3-14, of Hornick et al. states the following:

> The flight network database 6 specifies a plurality of flight legs, a plurality of itineraries (including which flight legs are used therein), one or more fare classes for each itinerary, a known seat capacity for each flight leg, a known demand distribution for each itinerary/fare class combination, a known revenue yield for a

seat reserved within each itinerary/fare class combination, and a booking limit for each itinerary/fare class combination. The seat inventory control system 5 processes the flight network database 6 to assign seats in a particular flight leg to one or more itinerary/fare class combinations in the flight network database 6.

Col. 5, lines 46-51, of Hornick et al. states the following:

Those flight legs where the EMSR 8 is less than a tolerance value are removed from the flight network database 6. A booking limit 7 is then calculated for each itinerary/fare class in the flight network database 6. Those itinerary/fare classes where a sum of the EMSRs 8 for all flight legs of the itinerary is greater than the revenue generated are rejected from the flight network database 6.

Col. 6, lines 48-56, of Hornick et al. states the following:

**Booking limits $S^i_p$ must be set for fare class i on itinerary p** so as to maximize total system revenue, **subject to the constraint that the total number of seats authorized for sale on each flight leg a is exactly equal to the capacity of that leg $C_a$, i.e., the number of seats on the aircraft flying the leg** (overbooking is considered in the fourth section below). As a matter of notation, the superscript i is dropped whenever a total over all fare classes is taken, and hence...

Reference is also made to Hornick et al. at col. 6, lines 7-20:

Operators at the reservation terminals 3 enter a **seat reservation request for a particular itinerary.** The computer 2 receives the seat reservation request from the reservation terminals 3 and the airline reservation system 1 lists as available only those fare classes that are acceptable for the given itinerary in accordance with the globally optimal set of EMSRs 8 and booking limits. **The seat reservation request is accepted when a total number of seats reserved in the itinerary/fare class does not exceed the booking limit 7 for the itinerary/fare class, or, alternatively, when the seat reservation request would yield revenue greater than or equal to a sum of the EMSRs 8 for all flight legs in the itinerary. Otherwise, the request is rejected.**

Clearly, Hornick et al. do not expressly disclose or suggest at least the subject matter claimed in claim 1:

> determining, for the given class of service (k) on the given transport service ($F_i$), <u>an overall number of available seats</u> $XFAV_{Fik}(Y)$ at the predefined level of expected revenue (Y) <u>as a function of the numbers of locally available seats</u> <u>($av_{Fik}(Y)$ $av_{Fjk}(Y)$) determined for the given transport service ($F_i$) and the at least</u> <u>another transport service ($F_j$)</u> between said two locations.

Instead, Hornick et al. clearly state, as was reproduced above from col. 6, lines 48-56, that the booking limits for a particular flight leg are "subject to the constraint that the total number of seats authorized for sale on each flight leg a <u>is exactly equal to the capacity of that leg</u> $C_a$, i.e., <u>the</u> <u>number of seats on the aircraft flying the leg</u>."

As such, Hornick et al. can actually be seen to <u>teach away</u> from the claimed subject matter that an overall number of available seats at the predefined level of expected revenue is a function of the numbers of locally available seats determined for the given transport service <u>and</u> the at least another transport service

For at least this one reason Hornick et al. cannot anticipate claim 1 under 35 USC 102(b), as all material elements of this claim are not found in Hornick et al.

The same argument is made for claim 2, that further modifies claim 1 by stating that the overall number of available seats is determined by "adding up the numbers of seats" available locally determined for the given transport service and the at least another transport service between the two locations. Clearly, there is no express teaching or suggestion in Hornick et al. of the adding of the number of seats from, e.g., a first aircraft flying a particular leg and another aircraft flying that leg.

The Examiner is respectfully requested to reconsider and remove the rejection of claims 1, 2 and 10 under 35 USC 102(b), and to allow these claims. Further, in that claim 1 is clearly allowable, then all claims that depend from claim 1 are also clearly allowable for at least this one reason alone, whether or not the disclosure of Talluri is considered in combination with Hornick et al. (which proposed combination is not admitted is suggested or technically feasible, and without

admitting that Talluri actually teaches subject matter that would read on the subject matter of the dependent claims).

Claim 15 has been newly added. Claim 15 makes explicit reference to flights and flight legs, and should also be found to be allowable for at least the reasons argued above for claim 1. Claim 15 also recites in part "determining, for the given class of service (k) on the flight leg of the first flight ($F_i$), an overall number of available seats at the predefined level of expected revenue (Y) as a sum of the numbers of locally available seats ($av_{Fij}(Y)$, $av_{Fjk'}(Y)$) that were determined for the flight leg of the first flight between the two locations and for the flight leg of the second flight between the two locations". No new matter is added.

The Examiner is respectfully requested to reconsider and remove the rejections of the claims under 35 U.S.C. 102(b) and 103(a) and to allow all of the pending claims as now presented for examination. An early notification of the allowability of claims 1-11 and 15 is earnestly solicited.

Respectfully submitted:

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